

discretion and that this case is appropriate for summary disposition. WIS. STAT. RULE 809.21 (2017-18).¹ We affirm the judgment.

Bayland served as general contractor for a large construction project. Schneider was a subcontractor of Bayland's. Schneider's January 27, 2016 complaint alleged it was due \$257,239.23 from Bayland for work it performed. In a separate but related action, Bayland sued Spirit Master seeking repayment of costs Bayland claimed it was due under the general contract.² Bayland did not name Schneider as an interested party in its lawsuit against Spirit Master.

Bayland sought consolidation of this case and the Spirit Master action, arguing that consolidation was warranted as both cases arose from the same transaction and had similar issues of fact and law. Further, consolidation would save expenses and promote judicial efficiency, and separate trials could render different results. Following briefing and a hearing, the circuit court denied the motion to consolidate on the grounds that the action was one which was

more complicated than the type of case that I would consolidate just as a matter of judicial efficiency....

I think the thing to do is to give Schneider their trial date fairly quickly and get this on the book....

I just have a sense that it's going to be more complicated for the finder of fact to go through these machinations where you have— first, you have the builder, the excavator, the property owner. The building is sold to another company, and you have foreclosure issues. It just seems to me that it would be streamlining things if we did it as two instead of one.

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

² For a more detailed factual history in this related case see *Bayland Buildings, Inc. v. Spirit Master Funding VIII, LLC*, 2017 WI App 42, 377 Wis. 2d 149, 900 N.W.2d 94.

Bayland acknowledges that consolidation is a discretionary decision for a circuit court. Bayland argues, however, that the court erroneously exercised its discretion “by putting undue emphasis on irrelevant or less significant factors to the detriment of relevant factors and by making an error in its application of the law.” Having reviewed the entire record, we disagree and conclude the court properly exercised its discretion in allowing Schneider its day in court, especially given that when Bayland commenced its suit against Spirit Master, which was prior to the commencement of this action, it did not consider Schneider an indispensable party. Most importantly, Bayland does not even suggest that it suffered any prejudice as a result of the denial of its consolidation motion. Bayland does not challenge any finding of fact or conclusion of law from the five-day trial that occurred following the denial of its consolidation motion and which resulted in a judgment of \$394,368.42 against Bayland.

The record is clear that the court examined all facts relating to Bayland’s motion to consolidate, properly applied a discretionary standard to the motion, utilized a demonstrative rational process (as enunciated in its oral ruling), and reached a conclusion that a reasonable judge could reach.

Upon the foregoing reasons,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals